

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Reverend Franklin C. Reaves, Ph.D.,

Plaintiff,

vs.

C/A No.: 4:10-3234-TLW-TER

ORDER

Sherry R. Rhodes, individually and in her official capacity as  
Clerk of Court for Marion County; Mark W. Richardson,  
individually and in his official capacity as Sheriff of Marion  
County; Levon Nichols, individually and in his official  
capacity as Deputy Sheriff of Marion County, *aka Levern*  
*Nichols*; Albert Woodberry, individually and in his official  
capacity as Deputy Sheriff of Marion County; Mitche  
McCaskill, individually and in his official capacity as Deputy  
Sheriff of Marion County; C.W. Johnson, individually and in  
his official capacity as Marion County Jailer; Tim Harper,  
individually and in his official capacity as County  
Administrator; John Q. Atkinson, individually and in his  
official capacity as a member of Marion County Council;  
Eloise W. Rogers, individually and in her official capacity as  
a member of Marion County Council; Tom Shaw,  
individually and in his official capacity as a member of  
Marion County Council; Allen Floyd, individually and in his  
official capacity as a member of Marion County Council;  
Milton Troy, individually and in his official capacity as a  
member of Marion County Council; Pearly Britt, individually  
and in her official capacity as a member of Marion County  
Council; Elista H. Smith, individually and in her official  
capacity as a member of Marion County Council; A. E.  
Morehead, individually and in his official capacity as Family  
Court Judge,

Defendants.

This is a civil action filed *pro se* by Reverend Franklin C. Reaves, Ph.D. (Plaintiff) against the Clerk of Court for Marion County, South Carolina, the Sheriff of Marion County and three of his deputies, the Marion County Jailer, the Marion County Administrator, several members of the

Marion County Council, and a Family Court Judge of South Carolina's Twelfth Judicial Circuit (comprising Marion and Florence Counties) in Florence, South Carolina. This matter is now before the undersigned for review of the Report and Recommendation ("the Report") filed by United States Magistrate Judge Thomas E. Rogers, III, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In his Report, Magistrate Judge Rogers recommends that the Complaint in this case be partially dismissed, without prejudice and without issuance and service of process, as to the following Defendants: Sherry R. Rhodes, Tim Harper, John Q. Atkinson, Eloise W. Rogers, Tom Shaw, Allen Floyd, Milton Troy, Pearly Britt, Elista H. Smith, and A.E. Morehead. The Report further recommends that the Complaint should be served on the following Defendants: Mark W. Richardson, Levon Nichols *also known as Levern Nichols*, Albert Woodberry, Mitche McCaskill, and C.W. Johnson. Plaintiff has filed objections to the Report (Doc. # 19) and a "motion to amend objections to the Report and Recommendation."<sup>1</sup> (Doc. # 24).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

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<sup>1</sup>The Court grants this motion and has considered this filing in addition to Plaintiff's initial objections to the Report. The Court has also considered Plaintiff's July 8, 2011 filing. (Doc. # 33).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. The Court accepts the Report.

**THEREFORE, IT IS HEREBY ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 15), defendant's objections are **OVERRULED** (Docs. # 19, # 24 & # 33); and the Complaint in this case is **PARTIALLY DISMISSED**, without prejudice and without issuance and service of process, as to the following Defendants: Sherry R. Rhodes, Tim Harper, John Q. Atkinson, Eloise W. Rogers, Tom Shaw, Allen Floyd, Milton Troy, Pearly Britt, Elista H. Smith, and A.E. Morehead. The Complaint should be served on the following Defendants: Mark W. Richardson, Levon Nichols *also known as Levern Nichols*, Albert Woodberry, Mitche McCaskill, and C.W. Johnson.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
**TERRY L. WOOTEN**  
**UNITED STATES DISTRICT JUDGE**

July 12, 2011  
Florence, South Carolina